

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision and statement of Reasons of the First Tier Tribunal (Housing and Property Chamber)

Under Rule 8 of the First Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 'the Rules'.

In respect of application by Dr Philippa Serebriakoff in terms of Rule 48 of the Rules.

Case reference FTS/HPC/RP/19/2874

At Glasgow on the 24th December 2019, Martin Joseph McAllister, legal member of the First –Tier Tribunal 'the Tribunal' with delegated powers of the Chamber President, rejected the above application in terms of Rule 8(1)(a) and (c) of the Rules.

1. This is an application by Dr Philippa Serebriakoff in respect of the property at 8 (3F1) Gladstone Terrace, Edinburgh, EH9 1LU (the property) which she rented from Mr Nick Barrett (in the tenancy documentation the landlord is designed as Mr Nick Barrett and Ms Victoria Jane Stokes c/o Braemore Sales and Lettings (Head Office), Orchard Brae House, 30 Queensferry Road, Edinburgh EH24 2HS), (the Landlord) under a Tenancy Agreement dated 2ND, 4TH and 10th June 2019. The application is under Section 22(1) of the Housing (Scotland) Act 2006 (the 2006 Act) and is in respect of the Landlord's obligation under Section 14(1)(b) of the said Act to ensure that the property meets the repairing standard under Section 13 of the 2006 Act. The application was dated 13th September 2019.
2. The application was accompanied by a copy of a Tenancy Agreement dated 2ND, 4TH and 10th June 2019.
3. The application was examined and was considered to be lacking in information which would have made it complete. It was unclear if Dr Neil Tan was still a tenant and if Ms Victoria Stokes was a co- landlord. Requests for further information and the opportunity to amend the application were made on 20th September, 5TH November and 11th December all 2019. It is considered that such information is required to allow the application to proceed to determination. No response was received from the applicant.

4. Rule 8(1)(a) of the Rules allows an application to be rejected by the Chamber President if ***“they consider that an application is vexatious or frivolous”***.
5. **“Frivolous”** in the context of legal proceedings is defined by Lord Justice Bingham in R-v- North West Suffolk Mildenhall Magistrates Court (1998) Env.L.R.9. At page 16 he states:- **“What the expression means in this context is, in my view, that the court considers the application to be futile , misconceived, hopeless or academic”**.
6. I consider that this application is frivolous or vexatious and has no reasonable prospect of success for the reasons given above.
7. Further, in terms of Rule 8(c) of the rules I have good reason to consider that it would not be appropriate to accept this application. The applicant has failed to provide the information requested of her.

NOTE: What you should do now.

If you accept this decision there is no need to reply.

If you disagree with this decision you should note the following:

An applicant aggrieved by this decision of the Chamber President or any legal member acting under delegated powers may appeal to the Upper tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must seek permission to appeal within 30 days of the date the decision was sent them. Information about the appeal procedure can be forwarded on request.

Martin Joseph McAllister

Legal Member of the First-tier Tribunal for Scotland

24th December 2019